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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,234	09/30/2003	Xuejun Wang	YAH0/002	9855

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MORRISON & FOERSTER LLP
425 MARKET STREET
SAN FRANCISCO, CA 94105-2482

EXAMINER

SMITH, JEFFREY A

ART UNIT	PAPER NUMBER
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3625

DATE MAILED: 02/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/675,234

Applicant(s)

WANG ET AL.

Examiner

Jeffrey A. Smith

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,5-25 and 28-101 is/are pending in the application.
- 4a) Of the above claim(s) 55-96 and 98 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,3,5-23,97 and 99-101 is/are allowed.
- 6) ☒ Claim(s) 24,25 and 28-54 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 May 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Response to Amendment

The response filed December 12, 2005 has been entered and considered.

Claims 1, 3, 5-25, 28-101 are pending.

Claims 2, 4, 26, and 27 have been cancelled.

Claims 55-96, and 98 have been withdrawn.

An action on the merits follows.

Claim Objections

Claims 8 and 31 are objected to because of the following informalities: it appears that "said document is a product" should read as --said document is a product page--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claims 47-54 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 47-54: it is unclear how the recited logic amounts to the recitation of an "apparatus" as recited in the preambles of these claims. For examination purposes, these claims have been interpreted as "article of manufacture" claims in the form of:

--A computer readable medium encoded with computer readable program logic, the program logic comprising: --.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 47, 48, and 50-54 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 47, 48, and 50-54, although they purport to set forth an "apparatus" merely recite logic. Such listing of logic

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to effect certain functionality amounts to the recitation of a program, per se. MPEP 2106.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 24, 25, and 28-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Graham (WO 99/41694 A1) in view of Barrett et al. (US 2003/0135490 A1).

Graham discloses medium encoded with code comprising instructions for obtaining sales information associated with a document returned in a search result set. A score for association with the document is generated which reflects the responsiveness of the document to the search term. Responsiveness is based on sales information. See page 3, lines 20-29

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Graham does not disclose that responsiveness is also based on a position of the document in an ordering of the plurality of members of the search result set.

Barret et al. teaches an invention which may be used as an enhancement to any existing relevancy defining technique (par. 0003). Specifically, Barret et al. teaches that the invention takes into account where in a prior results listing a particular piece of information was ranked when prior users selected it.

It would have been obvious to one of ordinary skill in the art to have provided the medium with code to have included instructions for estimating responsiveness additionally based on a position of the document in order to have enhanced relevancy based on reasonable expectations of how many uses the information will generate (par. 0003).

Allowable Subject Matter

Claims 1, 3, 5-23, 97, 99-101 allowable over the prior art of record.

Claims 47-54 would be allowable if rewritten or amended to overcome the rejections under 35 U.S.C. 112, 2nd paragraph, and 35 USC 101 set forth in this Office action.

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Response to Arguments

Applicant's arguments, filed December 12, 2005, with respect to rejections under 35 USC 101 and Ex Parte Lundgren are persuasive. The rejection of claims 1-23, and 97 under 35 USC 101 as lacking a non-trivial application of technology in the bodies of the claims has been withdrawn.

Applicant's arguments with respect to claims 24, 25, and 28-46 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS

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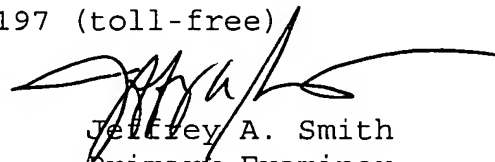
of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey A. Smith whose telephone number is (571) 272-6763. The examiner can normally be reached on M-F 6:30am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on (571) 272-7159. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free)



Jeffrey A. Smith
Primary Examiner
Art Unit 3625

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